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United States Court of Appeals
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,
Appellee,

— v —

STANLEY S. HECHT,
Appellant.

BRIEF FOR THE UNITED STATES OF AMERICA

Statement

This is an appeal from a judgment of conviction for criminal contempt of court entered in the United States District Court for the Southern District of New York on June 5, 1957, after a hearing without a jury before Honorable Edmund L. Palmieri, United States District Judge (1, 3).* The contempt consisted of the unexcused failure of the appellant, Stanley S. Hecht, to produce certain books and records of a corporation, World Over Export Trade Corporation, of which he was then the president and a director, although twice ordered to produce these books and records by the District Court in accordance with a subpoena duces tecum dated March 27, 1957 (3).

The Government called two witnesses at the hearing to prove that the non-produced books and records of the

* References throughout will be to appellant's appendix unless otherwise denoted with the suffix "a", in which case such references will be to the Government's appendix.

corporation specified in the subpoena were in the possession and under the control of appellant when the subpoena was served.

Appellant did not take the stand at the hearing, nor did he offer any other evidence to excuse his failure to produce the books and records. The only defense was that the Government had failed to sustain its burden of proof that the specified books and records were in existence at the time the subpoena was served.

On the basis of the uncontradicted evidence, Judge Palmieri held that appellant was in contempt of court and imposed a sentence of 90 days' imprisonment to commence the following day, June 5, 1957, at 4 P. M. (4). In imposing sentence, Judge Palmieri provided that appellant could purge himself of contempt by a proper showing that he had substantially complied with the subpoena duces tecum (22).

On June 5th the hearing was reopened at Hecht's request, and he attempted to explain why the subpoenaed books and records had not been produced (23). The attempted explanation was inadequate, and Judge Palmieri adhered to his original decision and sentence (26). Hecht was released on $5,000. bail pending appeal.

The Facts

World Over Export Trade Corporation (hereafter referred to as World Over) is a corporation organized and duly qualified to do business in the State of New York; Stanley Hecht is the president and sole stockholder of the corporation (6, p. 77 of hearing transcript). As its name indicates, World Over is in the export business. During the year of 1956, it purchased goods from United

States suppliers and, in transactions financed by the International Cooperation Administration, shipped these goods to customers in Vietnam and Cambodia. Early in 1957, the F. B. I. began investigation into charges that World Over and Hecht had made false statements to the I. C. A. in connection with these shipments, in violation of Title 18, United States Code, Section 1001.

Special Agent James Mulroy of the F. B. I. was in charge of the investigation (11a). Its specific purpose was to ascertain the amount and quality of goods shipped by World Over in filling purchase orders from customers in Vietnam and Cambodia under the I. C. A. program (11a). However, this could not be accomplished, because Hecht repeatedly stalled Agent Mulroy in his attempt to inspect World Over's books and records (15a).

Accordingly, a Grand Jury subpoena duces tecum was served on Hecht on March 27, 1957, requiring the production of all books and records of World Over for the calendar year 1956 and the year 1957 up until the time of service, including all correspondence, quotations, invoices, freight bills, export and import licenses, bills of lading, receipts, bank statements, checks, letters of credit and the corporate tax return for the year 1956 (6a).

Thereafter, on April 1, 1957 Agent Mulroy was permitted to inspect the books and records at World Over's offices. The inspection took three days. Agent Mulroy found file material relating to World Over's transactions with its customers in Vietnam and Cambodia, and other records of no importance in the pending investigation, such as invoices for office supplies (12a, 13a). But he could find no records—not a letter, a purchase order, an invoice, or a cancelled check—related to World Over's purchase of the goods with which it filled the orders placed by its Far Eastern customers (11a, 14a, 15a).

The investigation into the charges that World Over had cheated its I. C. A. financed customers was thus temporarily thwarted.

For this reason, Hecht appeared before a Grand Jury in the Southern District of New York on May 15, 1957, pursuant to a second subpoena, and there questioned concerning the missing corporate books and records.* He consistently refused to answer all such questions on the grounds that his answers might tend to incriminate him (7). Hecht was then taken before Judge Walsh who, after a hearing, directed him to produce the corporate records called for by the subpoena and to answer questions of a general nature relating to these records (7).

Hecht appeared before the Grand Jury again on May 17, 1957. He produced no additional corporate books and records and, despite Judge Walsh's direction, he persisted in his refusal to answer general questions about them (7). He was again brought before Judge Walsh, who repeated his previous direction (7).

Thereafter, Hecht appeared a third time before the Grand Jury. Again he produced none of the books and records which the Grand Jury sought. On this occasion, Hecht did, however, answer some general questions (8). He admitted that he handled the filing of invoices, cancelled checks, purchase orders and other important papers relating to purchases by World Over from suppliers in the United States (Gov't. Ex. 4 at hearing, p. 10). But when pressed, he again invoked the Fifth Amendment (Gov't. Ex. 4 at hearing, pp. 1-3).

* Hecht appeared before the Grand Jury on May 15, 17 and 28, 1957; the stenographic transcripts of his testimony were marked in evidence at the hearing as Government's Exhibits 2, 3 and 4 respectively.

In his three appearances before the Grand Jury and his two appearances before Judge Walsh, Hecht had not produced a single record relating to World Over's purchases from United States suppliers. Nor had he offered any adequate explanation for his failure to do so. The Government, therefore, asked that he be found in contempt of court.

A hearing on the contempt charge was held before Judge Palmieri on June 4, 1957 in accordance with Rule 42(b) of the Federal Rules of Criminal Procedure.*

The Government called two witnesses to prove that the missing corporate books and records had been in Hecht's possession at the time the subpoena was served.

The first witness, Sigmund Cohn, was a former employee of World Over, having worked for the corporation at the time the I. C. A. transactions under investigation had been consummated during the middle of 1956. Cohn testified that he had prepared the purchase orders for the goods purchased by World Over from U. S. suppliers at Hecht's direction, placing one copy and a signed copy returned by the supplier in the corporate files (21-22). He also testified that invoices received from the suppliers, copies of cover letters typed by him when payment was made to the suppliers by check, and various packing slips and shipping papers received by World Over from its packer in New York City were all placed by him in the corporate files during May and June, 1956 (2a-4a, 9a).

According to Cohn, the quality of textiles shipped to World Over's customers in Vietnam was inferior to the

* Stipulations were entered into between counsel for appellant and the Government waiving the notice requirement of Rule 42(b) and trial by jury.

quality ordered "most of the time" (6a), and in 85 or 90 per cent. of the textile orders filled there were shortages, sometimes as great as 70 per cent. (7a, 8a).

The second witness for the Government was Special Agent Mulroy, who testified concerning his examination of World Over's files. He told of his failure to find any corporate records, which had been filed by Cohn, through which he could trace the goods purchased by World Over from its U. S. suppliers (11a, 14a). Agent Mulroy also testified that fairly complete records relating to the transactions between World Over and its Far Eastern customers were found in the corporate files (12a, 13a).

The Government then rested its case, and appellant's counsel stated that he had no witness or proof to submit (18a). Counsel thereafter made a statement to the Court in which he suggested how the missing records might have disappeared, but this, of course, was not evidence in the hearing.

Judge Palmieri, in adjudging appellant guilty of contempt, found that the subpoenaed records had been in existence at the time that the subpoena was served, and that Hecht had failed to provide an adequate excuse for their non-production. In the Court's opinion this was a clear case of wilful contempt (19a, 20a).

Judge Palmieri sentenced Hecht to three months imprisonment and directed that he surrender the following day, June 5, 1957, at 4:00 p. m. (20a). Bail was fixed at $5,000. until time of surrender (20a).

On the following afternoon, at the time fixed for surrender, new counsel appeared for Hecht. He asked that the hearing be reopened so that Hecht might purge him-

self by explaining why the missing books and records had not been produced (23). The Court agreed to reopen the hearing (23).

Appellant then testified that World Over had engaged in transactions with customers in some fifteen countries in the previous year, amounting in all to "a couple of hundred thousand dollars". The documents relating to these transactions were, according to Hecht, filed by Cohn (26a). Occasionally he had seen some of the documents on the office floor (24). Hecht said that he remembered he had been unable to locate some invoices in January or February 1957, and he suggested that some of the papers might have been scattered on the floor and thrown out by the cleaning woman (24).

When questioned by the Court as to what had become of the cancelled checks, Hecht suggested that they might have been removed from the office by his accountant; he admitted, however, that he could not explain what had become of all other pertinent documents (28a). On cross-examination, he conceded that the missing books and records had in fact been placed in the company's files and none had been left on the office floor (26a). His only "explanation" for his failure to produce the crucial subpoenaed records was that Cohn had been careless in his filing (29a-30a), but he called no witnesses to support this theory.

Judge Palmieri found Hecht's story incredible and refused to modify his judgment of conviction and sentence (31a).

Statute and Rules Involved

Title 18, United States Code, Section 401

POWER OF COURT

"A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—

* * * *

(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command."

Federal Rules of Criminal Procedure

RULE 17. SUBPOENA

* * *

(g) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court from which the subpoena issued or of the court for the district in which it issued if it was issued by a commissioner."

RULE 42. CRIMINAL CONTEMPT

* * *

(b) Disposition Upon Notice and Hearing. A criminal contempt except as provided in subdivision (a) of this rule shall be prosecuted on notice. The notice shall state the time and place of hearing, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting the criminal contempt charged and describe it as such. The notice shall be given orally by the judge in open court in the presence of the defendant or, on application of the United States attorney or

of an attorney appointed by the court for that purpose, by an order to show cause or an order of arrest. The defendant is entitled to a trial by jury in any case in which an act of Congress so provides. He is entitled to admission to bail as provided in these rules. If the contempt charged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial or hearing except with the defendant's consent. Upon a verdict or finding of guilt the court shall enter an order fixing the punishment."

Question Presented

Should appellant, as president of a corporation whose books and records he was legally obligated to produce pursuant to a subpoena duces tecum, be held in contempt of court where the Government proved by substantial evidence that such books and records were in existence at the time the subpoena was served and appellant offered no adequate excuse for their non-production?

ARGUMENT

Appellant's conviction of contempt must stand because he failed to offer an adequate excuse for non-production of corporate books and records proved beyond a reasonable doubt to have been in existence at the time the subpoena was served on him.

As president and the sole stockholder of World Over, Hecht was legally responsible for the production of its records in response to the grand jury subpoena. *Wilson v. United States*, 221 U. S. 361 (1911). It is conceded that, if the records could have been produced, Hecht was the person legally obligated to do so.

Hecht claims, however, that the Government failed to prove beyond a reasonable doubt that the records were in existence so that they could have been produced at the time the subpoena was served. The short answer is that the evidence overwhelmingly shows that the significant records were in existence when the subpoena was served and were deliberately withheld from the Grand Jury by Hecht.

Cohn's testimony clearly established that World Over had kept extensive records with respect to supplies purchased in the United States for resale to customers in Vietnam and Cambodia. These records included purchase orders, invoices, packing slips, shipping papers and correspondence (2a-4a). And Cohn said he saw this material in World Over's files in July 1956 (11)—only eight months prior to the service of the Grand Jury subpoena.

Agent Mulroy testified that his investigation disclosed that World Over kept fairly complete records with respect to its sales to Vietnamese and Cambodian customers (12a-13a). Yet he was unable to check how the orders for textiles and rubber tires had been filled because every single record which might have provided a useful lead was missing. Thus, although he looked for three days, he could not find a single purchase order, invoice, cancelled check, or letter relating to the purchases of textiles and rubber tires from United States suppliers (14a-15a). Without these records, Agent Mulroy was at a deadend.

Hecht contends that the general ledger and check stubs he turned over to Agent Mulroy gave the names of World Over's suppliers and that Mulroy could have contacted the suppliers and obtained the necessary invoices and purchase orders from them. The argument is specious. Neither the check stubs nor the general ledger showed for what purpose a particular check had been issued, or where in the United States the payee-supplier was located (18a). From an investigative standpoint, the name of a supplier without more was virtually useless.

The suggestion that the Assistant United States Attorney could have obtained the necessary additional information if he had questioned Hecht further is equally specious in view of Hecht's repeated invocation of the Fifth Amendment in response to questions of a far more inocuous nature.

The fact is that Hecht knew at the time he was served with the subpoena that World Over was being investigated in connection with the statements he had filed with the I. C. A. There was substance to the charges that World Over had misrepresented to the I. C. A. the quantity and

quality of goods shipped to Cambodia and Vietnam—as Cohn's testimony at the hearing clearly showed. Thus, Hecht had a strong motive for destroying the records which would enable the Government to check the truth of the statements submitted to the I. C. A.

In this context, Judge Palmieri appropriately observed (19a):

> ". . . it stretches the credulity of the Court for [Hecht] to claim that every single document pertaining to this one phase of his business is missing."

Hecht's belated attempt to explain his failure to produce these documents was hardly calculated to mitigate the Court's incredulity. Hecht admitted that the pertinent documents had in fact been filed (26a). He thought that the shipping papers, purchase orders, and invoices might have been misfiled by Cohn, and that his accountant might have some of the missing cancelled checks (25a, 30a). But this hardly explained the disappearance of every record relating to the transactions under investigation, and Judge Palmieri understandably refused to accept Hecht's story (22a).

The legal principles which govern cases of this kind are well-settled, and the decision in any particular case must turn upon its facts. *United States* v. *Johnson*, decided by this Court on August 16, 1957, Docket No. 24676, — F. 2d —. Where, as here, the Court is reviewing a judgment of conviction in a non-jury criminal case, the evidence must be viewed from a standpoint most favorable to the Government, ". . . which includes, where there is, as here, circumstantial evidence, the indulgence in all permissible inferences in its favor. . . ." *United States* v. *Brown*, 236 F. 2d 403, 405 (2d Cir. 1956).

On the facts of this case, and the permissible inferences to which they give rise, it is clear that the contempt conviction must stand. The burden was upon appellant to present an adequate explanation for his failure to produce the subpoenaed records, and he did not meet that burden. *United States* v. *Fleischman*, 339 U. S. 349 (1950); *United States* v. *Nilva*, 352 U. S. 385 (1956); *United States* v. *Johnson*, *supra*.

United States v. *Johnson* was a stronger case than this one for the appellant, yet this Court affirmed a contempt conviction for failure to produce corporate books and records. There, more than a year had elapsed between the time that the non-produced records had last been seen and the time that the subpoena was served (see page 8 of Government's brief in *United States* v. *Johnson*, *supra*). Here the time interval was only eight months.

United States v. *Patterson*, 219 F. 2d 659 (2d Cir. 1955), upon which appellant places heavy reliance, is distinguishable. There, Patterson had been once sentenced for contempt in failing to produce certain books and records. Upon his release from prison he was again subpoenaed to produce the same books and records, and adjudged in contempt by the District Court for failing to do so. The evidence adduced at the hearing showed that Patterson's possession and control of the books and records had been interrupted during his jail sentence and that others had a motive to destroy them. On these facts, this Court reversed the second contempt conviction. Here, appellant's control of the subpoenaed records was uninterrupted, and there was no evidence that others could, or would want to, destroy them.

Here Hecht's testimony—the only evidence offered in defense of the contempt charge—was on its face incredible. As the Court aptly stated in *Lopiparo* v. *United States*, 216 F. 2d 87, 91 (8th Cir. 1954), *cert. denied* 348 U. S. 916:

> "The District Court did not believe and was not compelled to believe the testimony of the appellant that he was unable to find the books he was ordered to produce. The court was the judge of the appellant's credibility and the weight of his evidence. The appellant's self-interest was obvious. His defense was one easily fabricated and almost impossible to disprove. . . ."

Conclusion

The evidence clearly proved that the non-produced corporate books and records were in existence at the time the subpoena was served and were deliberately withheld by Hecht.

The judgment of conviction and sentence should be affirmed.

Respectfully submitted,

PAUL W. WILLIAMS,
United States Attorney for the Southern District of New York,
Attorney for United States of America.

WILLIAM K. ZINKE,
ARTHUR B. KRAMER,
Assistant United States Attorneys,
Of Counsel.

APPENDIX

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APPENDIX

Excerpts from Contempt Hearing

(1)

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

C. 153-87

UNITED STATES OF AMERICA,

vs.

STANLEY S. HECHT,

Witness.

Before: HON. EDMUND L. PALMIERI, *District Judge*.

New York, June 4, 1957.

APPEARANCES:

PAUL W. WILLIAMS, Esq., United States Attorney, for the Government;

By William K. Zinke, Esq., Assistant United States Attorney.

WILLIAM MERRITT, Esq., Attorneys for the Witness.

* * * *

(15) * * *

SIGMUND L. COHN, called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

Direct examination by Mr. Zinke:

* * * *

(21) * * *

Q. Thereafter, Mr. Cohn, were purchase orders prepared in the office of World Over Export Trade Corporation? A. Yes, sir.

Q. Who prepared them? A. I did, sir.

(22)

Q. I beg your pardon? A. I prepared them at the direction of Mr. Hecht.

Q. How many copies did you prepare? An original and how many copies? A. Two original copies and one export copy.

Q. What was the extra copy for? A. The extra copy was a copy to be signed by the supplier of his acceptance.

Q. What was to be done with that? A. To be returned to the importer.

Q. Were the signed copies returned by the suppliers with their acceptance thereon? A. Yes, sir.

Q. Can you tell me of any case where you did not receive the signed acceptance of the purchase order for the purchase order placed? A. No, sir.

Q. Thereafter, to your knowledge, were invoices received from these suppliers by the corporation? A. Yes, sir.

Q. Let me ask you this: What was done with these

purchase orders, the file copy, and also the copy returned with the acceptance? What was done with them? (23) A. They were put together with the respective orders, the papers connected with it.

Q. Where were they kept? A. Kept in the file.

Q. Of the corporation? A. Yes, sir.

Q. How about the invoices that you received from the suppliers? A. They were also placed.

Q. In the files? A. Yes, sir.

Q. And thereafter were payments made on these purchases by World Over? A. Yes, sir.

Q. How were payments made? A. By checks.

Q. Were payments ever made by cash? A. Not that I know of, sir.

Q. As to the payments by check, Mr. Cohn, from your knowledge were they made personally or through the mail? A. Through the mail.

Q. Were letters sent out with these checks? A. Yes, sir.

Q. Covering letters? (24) A. Yes, sir.

Q. Who prepared the letters? A. I did, sir.

Q. Did you prepare a copy of all of the letters you sent out? A. Yes, sir.

Q. What did you do with the copy of the letters? A. Put together with respect to other papers belonging to these transactions.

Q. Where did you put these papers? A. Into the file.

Q. Of the corporation? A. Yes.

Q. There was a file cabinet, is that it? A. Yes, sir.

Q. Now, did you ever see these checks returned canceled? A. The checks?

Q. These checks sent out by the corporation in payment of these goods. A. No, sir, I did not see them.

Q. You did not see the checks? A. No.

Q. Thereafter from your knowledge, do you know (25) whether orders were given to these suppliers by World Over for the delivery of these goods that had been purchased? A. They were given simultaneously in the purchase orders.

Q. What were the orders given to the suppliers? A. To ship this merchandise to the packing house.

Q. What was the name of the packing house? A. The Nu Mar Standard Company.

Q. Would you spell that first name, please? A. N-u M-a-r Standard company or corporation.

Q. Located here in New York City? A. On Green Street.

Q. Were there any papers received from Nu Mar by World Over? A. Yes, sir.

Q. What papers were received by World Over from Nu Mar? A. The packing slips and what was packed by them.

Q. Any other papers that were received by World Over or kept by World Over in connection with these transactions that you can think of? A. Shipping documents.

Q. Were there shipping documents? (26) A. Copies of bills of lading.

Q. Were they also retained in the files of the corporation? A. Yes, sir.

Q. Did you see the orders, Mr. Cohn, received from the far eastern customers, customers in Vietnam?

Mr. Brunner: I am sorry. I did not hear that.

Mr. Zinke: Would you read the question?

(Question read)

Q. Did you see those orders? A. At a later date I saw them.

Q. Do you know what quality goods were called for by those orders?

Mr. Brunner: Objected to as irrelevant and immaterial as to this issue as to whether or not—the issue is whether the documents were lost or not lost. That is the only issue.

Mr. Zinke: Your Honor, they bear upon the wilfulness of the defendant in this case.

Mr. Brunner: They have nothing to do with the question of whether or not the documents are in their possession or had or had not been delivered to the defendant.

The Court: It may show some reason for (27) wanting to conceal them and not produce them. It may also tend to establish whether the reason was valid or invalid. I will allow the question.

Mr. Zinke: Would you read that question, Mr. Cyrus?

(Question read)

A. Yes, I saw them at a later date.

Q. Do you know what quality goods were called for by those orders? A. Called for the various qualities that I had been given the samples of by Mr. Hecht, nylon, gabardines.

Q. What quality was called for by the orders? A. Called for so many yards of this quality and so many yards of this quality and so many yards of this quality.

Q. Was the quality called for the quality delivered to these customers? A. No, sir.

Q. What quality was delivered to the customers? A. Inferior quality.

Q. Inferior quality.

By the Court:

Q. Was that an invariable practice? A. Not completely, no.

(28)

Q. Was it sufficiently done to permit you to say whether it took place most of the time? A. Yes, sir.

Q. It did take place most of the time? A. Yes, sir.

Q. During what period of time are you testifying to? A. The period of June, 1956, sir; May and June, 1956.

Q. May and June of 1956, is that right? A. I think so.

Q. Who was in the office besides you and Mr. Hecht? A. Working for Mr. Hecht?

Q. Yes. A. I was the only one working for Mr. Hecht.

Q. So the World Over Corporation consisted of, so far as people were concerned, of Mr. Hecht and yourself? A. I was employed by Mr. Hecht.

Q. You were employed and he was the owner? A. Yes.

Q. There was nobody else? A. No, sir.

Q. How many rooms did you occupy? A. Two rooms, sir.

(29)

By Mr. Zinke:

Q. Let me ask you this, Mr. Cohn: The orders from the far eastern countries, Vietnam, call for a certain number of yards, is that correct? A. Yes, sir.

Q. Was the amount of yardage called for in the orders the amount of yardage delivered to these customers, shipped to these customers?

Mr. Brunner: Objection. There has been no showing that he would know of the entire transaction, your Honor. The question should deal with transactions that he personally dealt with. I submit that he cannot answer.

The Court: He can answer that if he knows the answer.

Q. if you know. A. It was not the same yardage shipped as the order called for.

Q. In what percentage of the orders did this occur? A. In most of the orders, I would say. I would say 85 or 90 per cent.

Q. Did you ever speak with Mr. Hecht about this? A. Yes, sir.

Q. Approximately when were these conversations with Mr. Hecht? (30) A. The orders, what they called for, and what Mr. Hecht purchased. Then I would show him the orders and Mr. Hecht told me then, showed me that each order had a little slip of paper attached to these orders which stated—I do not know the exact wording—that these were the orders from the customers, this is the order for this license number covered by the credit, the letter of credit number, and for you to invoice the full quantity and collect the full amount of the letter of credit and we will arrange any differences between ourselves.

Then Mr. Hecht told me that this is a part of it and "I have confidential correspondence of the customer at home and a lot of other things covering it."

Mr. Hecht told me also that this customer extracted from him a special discount of 3 per cent, so he would place his business with him. That is when he told me there is nothing wrong with this, that it is the arrangement of the customer that he has with him.

Q. Did you ever see any papers which would substantiate that arrangement? A. No, only for these little slips of papers that (31) were attached to the orders.

Q. Just for repetition, Mr. Cohn, is it common to have such a statement made in connection with orders between people, that the differences will be arranged? A. Not to my knowledge.

Q. Can you testify from your knowledge how large the differences were between the amount of yardage, the amount of goods ordered and the amount delivered on the various shipments? A. Well, it varied.

Q. Between where and where? A. A few where the difference, I would say, maybe was 20 or 30 per cent and others where the difference was 70 per cent, maybe.

Q. 70 per cent less than the amount ordered? A. Possibly.

Q. Mr. Cohn, these records you testified were placed by you in the files of the corporation, is that correct? A. Yes, sir.

Q. To your knowledge, how long did you continue working for the corporation? Until February of 1957? A. Yes, sir.

Q. To your knowledge, do you know of any occasion (32) where these papers were taken out of the files of the corporation? A. No, sir.

Q. Were you also working for the corporation, Mr. Cohn, during the time when there were orders received from customers in Cambodia for rubber tires? A. Yes, sir.

Q. Without going into the details, Mr. Cohn, was the same office procedure followed with regard to the purchase of rubber tires delivered to customers in Cambodia? A. Yes, sir.

Q. By that I mean purchase orders were retained in the files? A. Yes, sir.

Q. Invoices were retained in the files? A. Yes, sir.

Q. Cover letters were sent out with checks given in payment? A. Yes, sir.

Q. Packing lists were received by the corporation from Nu Mar? A. No, sir, not for rubber tires. They did not go to Nu Mar. They went directly to the piers.

(33)

Q. Do you know from which suppliers these rubber tires were purchased? A. Consolidated Rubber Company, Madison, Wisconsin.

Q. Yes? A. Boston Tire Exchange. Pollak Tires.

Q. Spell that. A. P-o-l-l-a-k, or "c-k" in Brooklyn.

Q. What type of tires, what quality of tires were purchased by World Over from these suppliers?

Mr. Brenner: I object to going into these issues as not being the issue before the Court at this time.

Mr. Zinke: I repeat, your Honor, that they bear upon the wilfulness of the defendant.

The Court: Overruled.

Q. Would you answer that question, please? What quality of tires were purchased? A. Recap tires.

Q. Recap tires. Of your own knowledge, Mr. Cohn, do you know what quality of tires were ordered by the customers in Cambodia? A. Tires were ordered.

Q. What quality? A. I do not know if the orders specified the (34) quality.

By the Court:

Q. Did they order or specify recaps? No, sir, not as far as I know.

Q. You saw no orders which called for recap tires? A. No, sir.

Q. You saw no orders which called for secondhand tires? A. No, sir.

By Mr. Zinke:

* * * *

(42) * * *

Q. Let me ask you just two more questions, Mr. Cohn. These records that I mentioned before, the purchase orders, the invoices, etc., were they all kept in the files of the corporation in the regular course of its business? A. Yes.

Q. Was it the regular course of business of the corporation to keep such files in connection with the purchases and related transactions? A. Yes, sir, as far as I know.

Q. So far as you know, Mr. Cohn, who was the owner of World Over? A. The owner I do not know. I know Mr. Hecht was the man who ran it.

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(61) * * *

JAMES T. MULROY, called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

Direct examination by Mr. Zinke:

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(64)

The Witness: I was seeking to determine the nature of the purchases by World Over Export Trade Corporation, which purchases of the World Over would have eventually found their way to a sales book and the merchandise would have found its way to the far eastern market of Vietnam and Cambodia.

I was attempting to follow the chain of goods from this country to the far east.

Q. In connection with your examination of the books and records of World Over, did you find that copies of purchase orders were retained in instances in the files of the corporation? A. I cannot say. I went through the books and records of the corporation looking for data in connection with the far eastern countries of Cambodia and Vietnam: purchase orders in connection with transactions to those countries I was looking for. I did not find any such purchase orders.

Q. Did you find any invoices covering purchases of textiles in this country in order to fill orders in Vietnam? A. I did not locate in the files of World Over any invoices from jobbers or suppliers in this country for textiles or rubber tires.

(65)

Q. Or rubber tires with regard to purchases from customers in Cambodia? A. Purchase in this country which would eventually finds its way to Cambodia.

Q. Did you find any papers in the files of the corporation in regard to these transactions? A. I did.

Q. What did you find? A. I found the correspondence files relating to negotiations with importers in Cambodia and Vietnam, general letters of correspondence.

I found copies of bills of lading for goods going to the far east. I found copies of invoices for goods going to the far east.

Q. From World Over to purchasers— A. From World Over to purchasers in Cambodia and Vietnam. I found copies of packing lists for textiles which were sent to Vietnam. I found copies of letters of credit with the Chase-Manhattan Bank. And I believe the Manufacturers Trust Company were in the textiles and rubber tires being shipped to Vietnam and Cambodia.

Q. Generally speaking, Mr. Mulroy, would you say that the files of the corporation were fairly (66) complete with regard to transactions between World Over and the customers in the far east? A. As far as the goods which found their way to the far east is concerned, I was unable to find any record relating to the purchase of those goods in this country anywhere, in fact. They showed them coming in to the books of the corporation, although there would have been data in connection with the sale of those goods to the far east.

Q. To repeat my question, would you say that generally speaking the files of the corporation were fairly complete with regard to the transactions between World Over and the customers abroad? A. To that question, on the surface it appeared to be complete, but on occasion, in reviewing these files, I do see where there are copies of letters missing.

For instance, a foreign importer writing a letter to

World Over referring to "our letter of such-and-such a date," and that particular letter might not be found in the file. The same way with World Over to a foreign importer, "referring to our previous letter of a particular date;" on a few occasions those types of letters of reference were (67) missing, but generally speaking they were filed complete.

Q. Did you find any papers in the files of World Over with regard to transactions between the corporation and suppliers in this country? A. Yes. I found there were invoices for typewriter repairs and things of that nature, purchases of paper, invoices of that nature were in the files.

Q. How about papers with regard to transactions between World Over and suppliers in this country of textiles and rubber tires? A. I was unable to locate any such papers.

Q. Any papers? Purchase orders? A. I was unable to locate, for instance—I worked from the book of World Over, the cash disbursements book.

The checks issued by World Over are listed chronologically and there is a total column indicating the amount of the check. It is then broken down to what the particular check was for. For instance, the purchases of goods in the column in the book, and it was items of that nature that I was interested in, the purchase of goods and textiles and rubber tires, and those rubber tires would be indicated.

There is another column here for general items, (68) miscellaneous, where you might find office expenditures on typewriter service, and things of that nature?

First, the checks were all mixed up. I put about 100 of the checks in order and then I went through the checks

chronologically and found that certain checks were missing.

Q. Which checks were those? A. The checks that were missing are the canceled checks of particular items purchased.

Q. Which items purchased? A. The items which would be indicated in this book in the purchase column, which would reflect the purchase of rubber tires and textiles. For instance, they were the only checks that were missing of these 100 that I put in order.

Q. All the other checks were there? A. All the other checks were there in chronological order, rather than waste my time putting all these checks in order, then looked up the names of the supplier.

Q. Did you find the names of those? A. Yes, they are listed there in the book. I went through the balance of the checks to see if I could find the canceled checks indicated by the cash (69) disbursement book, in order to start this rolling. I was unable to locate any of the canceled checks for this particular purchase of goods. I was unable to locate the invoices covering these items which were indicated as paid. I was unable to locate any order for these goods; unable to locate any letter of transmittal which might accompany the check of the particular vendor.

I noticed that there was a packer employed or used by World Over. I was unable to locate any instructions of World Over to the packer as to how the goods should be packed and shipped.

After spending three days looking through all of the files that were in the two offices and actually handling all of the folders in these file cabinets, and with Mr. Hecht going through the drawers, the desk drawers, I was unable

to find anything relating to these items that I have just mentioned.

I spoke to Mr. Hecht about it. He was at a loss as to why these documents should be missing. In fact, he went through the cabinets himself trying to find these documents for me. He was at a loss as to an explanation. He pointed out to me that in some instances the charwoman may have come around and actually thrown records away.

(70)

Q. Mr. Mulroy, you found, just to recapitulate, you found no records of the corporation with regard to purchases by it from suppliers in this country in order to fill purchase orders from far eastern countries? A. That is right.

Mr. Zinke: No further questions.

Cross examination by Mr. Brunner:

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(71) * * *

Q. Is it fair to say, Mr. Mulroy, that the documents were never refused to you but it was that you were never able to get together or the parties never got together with you in order to give you those documents? A. Both Mr. Hecht and his attorney put me off and kept on promising the documents, although they never——

Q. You did have several meetings with Mr. Hecht and with myself as his attorney at which we produced certain documents, such as letters of credit and some supporting documents and in fact went over those in your office for quite a time there trying to straighten them out, is that

correct? A. Again those are the same records that pertain to dealings on the goods from the time they left this country and went overseas to Vietnam and Cambodia, Those were the same records that were exhibited.

* * * *

(73) * * *

Q. There were also papers in packages which were lying on the floor and on shelves at the time you were there? A. There was paper.

Q. You mean blank paper? A. I am just saying paper. There was advertising material in the magazines and types of paper of that nature left on the floor.

Q. Were there also bundles of paper of various descriptions? A. Groups of paper I would consider as a bundle. Groups of magazines may have been tied together with a piece of string. I would consider that a bundle.

Q. When you say magazines, is it fair to state that these were not fictional magazines but magazines dealing with the trade of these corporations? A. That is correct.

(74)

Q And after spending about three days there you took away approximately a little over 700 documents, is that correct? A. After spending three days there, I got together the only papers that I could find dealing with transactions in Cambodia and Vietnam, which documents were of interest to me from my investigation and which I would want to examine very, very closely; rather than to take up space in an office there with two desks, I received permission from Mr. Hecht and yourself to remove those documents and examine them at my leisure, and in return I gave a receipt. I explained to you and Mr. Hecht at the time that these were merely documents relating

to correspondence with these people in Vietnam and Cambodia.

Q. Now, Mr. Mulroy, many of these documents that are open to you and which you picked up were documents, which you now have in your lap, disclosed the names of suppliers and packers, and so forth, isn't that correct? A. Where a check was made out to a particular person—I never saw the canceled check.

Q. I appreciate that. My question to you is whether the names of these suppliers who would have (75) received the canceled checks were found by you in documents which you picked up at this office, is that correct? A. The only evidence I have of any suppliers named or anything relating to a supplier is from an indication in this book that, for instance, check No. 143 was issued to John Doe, Inc., for example. That was the only indication of any supplier at all that I came across.

Q. And also that same book, which is a large ledger book, contained the name of the packer to whom you previously referred as being a packer to whom these shipments were delivered for packing, is that correct? A. There was a name of a packer indicated in this book.

Q. That information was obtained by you or was disclosed to you from the ledger book which you picked up at the office of World Over Export Trade Corporation? A. That is correct.

Mr. Brunner: Thank you, Mr. Mulroy.

Re-direct examination by Mr. Zinke:

Q. Mr. Mulroy, you testified that there were magazines and papers on the floor of the corporation in bundles, the corporation office. Did you observe any books or cor-

porate records of the corporation? (76) A. There were no records of the corporation as such, no invoices or anything of that nature.

Q. They were in the files of the corporation? A. Yes, invoices were in the files of the corporation in cabinets.

Q. And other important papers? A. Important papers were found in the file cabinets. They were not lying on the floor.

Q. Was it readily observable by you from your examination of that corporate record book which you have in your possession on the stand what purchases were made by the corporation from suppliers in the United States of textiles and rubber tires? A. I have no indication as to the name of the person or corporation to whom a check was issued.

Q. No idea for what purpose the check was issued? A. No idea of the purpose, no idea of where the firm is located, or the corporation, whether in Brooklyn or in Seattle, Washington.

Q. It could be anywhere in the United States? A. It could be anywhere in the United States, to find out who John Doe, Inc. might be.

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(79) * * *

The Court: Does the defendant wish to submit any proof?

Mr. Brunner: No, if your Honor please. The defendant has no witness or proof to submit. I would, however, make a final statement to your Honor on behalf of the defendant bearing both upon Judge Walsh's direction and upon the testimony adduced here this afternoon.

Statements of Judge Palmieri and Counsel

(80) * * *

The Court: You see, it stretches the credulity of the Court for him to claim that every single document pertaining to this one phase of his business is missing. At least one of them should have been found. But the charwoman was apparently very familiar with his files and exercised extraordinary skill in being able to cull out of his (81) files all the papers relating to the suppliers in this country. So it is obvious to me that those files were cleaned out with the purpose and skill; for him to claim to me to believe that the charwoman did it is just a little bit too much. I haven't deposited my common sense in the robing room before coming into court. Don't you see how convenient it could be for a man running a one-man corperation in two rooms like this man was operating to be able to avoid prosecution and investigation of his corporation just by saying, "Well, I gave you everything I had. I am terribly sorry. I will search for the next six months, but I haven't got them."

Then he is free. You don't claim that——

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(94) * * *

The Court: You have been given now a very thorough and formal accounting of your client's conduct. You have been given the opportunity to submit evidence. How do you excuse his conduct? Are you—you have declined both opportunities. The issue before me is a very clear issue as to whether or not his conduct up to this point has been proven to (95) be contemptuous within the purport of the law applicable thereto.

Finding of Contempt

(98) * * *

The Court: Gentlemen, it is my conclusion that a sufficient case has been made out to justify my finding that the defendant intentionally and without adequate excuse defied the processes of this court and has failed to comply with a subpoena duces tecum. His conduct is contemptuous and contumacious. He has persisted in that conduct despite several opportunities to comply with the subpoena, despite clear instructions of the Judge of this Court with regard to his obligations as a witness, pursuant to the direction of that subpoena.

Therefore, I adjudge the defendant in contempt upon the record before me.

I consider now an application to punish him for that contempt. I would like to confer with counsel off the record.

(Discussion at the bench between Court and counsel, off the record.)

The Court: Stand up, Mr. Hecht.

I sentence you to serve a term of three (99) months in jail for contempt of court, upon the stipulation that if at any time you comply substantially with the obligations of the subpoena duces tecum, which up to this time you have failed to comply with, you may be purged of contempt upon the proper showing before a judge of this court that you have so complied.

I direct that you surrender at 4 o'clock tomorrow afternoon and that in the meantime you give bail in the sum of $5,000 for your appearance.

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Statements of Judge Palmieri and Counsel on June 5, 1957

(106) * * *

(111)

The Court: I specifically asked that question of the FBI agent because I was concerned about the possibility that these might have been very old records that in the normal course of business would be discarded, but they weren't.

Mr. Merritt: This goes back over a year.

The Court: These records were asked by the FBI agent, as I recall, in March 1946, and they are related to transactions which were from March 1956 onward, which meant that they were a year or less old at the time they were requested.

Am I right, Mr. Zinke?

Mr. Zinke: They relate to transactions from June on, not from March.

The Court: June '56 on.

Mr. Zinke: Yes.

The Court: So there was not one item as much as a year old.

Mr. Zinke: Quite correct, your Honor.

The Court: So you see he is not being asked to produce records which in the normal course of events would have been discarded. They are recent records.

Mr. Merritt: But he explained before earlier (112) in the proceedings that he had moved several times and that although this might look like a large business, it is a one-man operation. On these import and export transactions large quantities take place but it is work out of a small office right here at Broadway and he is the lone employee and operator of his business and on occasion he has had [illegible] time to time.

Statements of Judge Palmieri and Counsel on June 5, 1957

The Court: That is all the more reason why he should know what happened to these documents.

Mr. Merritt: Unfortunately, some of them may have been mislaid. Some of them may have been thrown out.

The Court: But at least a few of them, by accident, should have remained. Here there was a very complete and skillful cleanout of everything that related to the very thing which was being investigated by the FBI.

Mr. Merritt: That is not so. They had 700 documents in relation to this investigation.

The Court: Not one of which relates to business transactions between this man and his suppliers in the United States.

Mr. Merritt: I do not know that. They (113) have taken those records and we do not know what they have.

The Court: You know what they have. That is another statement that is not justified. I am not inclined to hear you further because it is obvious you do not know what happened in this case yesterday and I demand that the defendant's counsel stand up and correct me if I am wrong.

Yesterday the United States Attorney represented that all of the documents which he had from Mr. Hecht were available and had remained available to Mr. Hecht's lawyer throughout. And he turned over to him in my presence an envelope containing those documents and said that they could be inspected right then and there, because counsel said he was looking for a paper, and then he declined to go further into the matter.

Mr. Brunner, have you had a chance to look at the documents?

Mr. Brunner: We do not deny that we had access to them, nor that we could at any time have examined them. The documents were in the physical possession of the United Attorney.

However, we did concede, I agree with your Honor fully, that because we did concede with Mr.
(114) Mulroy that Mr. Mulroy told us that these documents which he was seeking were not among those papers, and that I would not have to seek further but would accept Mr. Mulroy's word. Mr. Mulroy said that that is true.

I fully agree with your Honor that we do not contend that these missing documents are in the possession of the Government. We admit that the documents which your Honor mentioned are documents which are missing and are not in the possession of the Government.

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(116) * * *

STANLEY S. HECHT, called as a witness in his own behalf, having been first duly sworn, testified as follows:

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(126) * * *

Cross examination by Mr. Zinke:

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(133) * * *

Q. Is it your testimony today that some of these papers were just left lying around on the floor and on the desk?

A. No, sir. I said here when we—they send us a check to make payments the usual way. We send also (134) a letter to the supplier, "Enclosed find check No. so-and-so in payment of your invoice."

The invoice, usually months and months, is left in his desk accumulating a lot of papers, bundles of papers, I beg your pardon. I give you 20 witnesses, and I reserve the right to do so.

When the man come in in mine office the first time he told me he will clean up this mess first, and after he worked for me, a bigger mess I had on my desk, so big (indicating) piles on his own desk, so we never could find a letter or an invoice.

Q. Mr. Hecht, I would like to repeat my question. Did you hear Mr. Cohn testify yesterday that the purchase orders and the copies of covering letters and the invoices were filed in a filing cabinet? A. No, sir, letters——

Q. Does that refresh your recollection as to what was done with these papers? A. Yes. He said that. He put it in the files; that's correct. Certain documents he put in. A few he put in. Others he left it in his desk, plenty.

Q. He put some in the files? A. Yes, yes, and you can find it there.

Q. Do you know of any case where the accountants—(135) you say they took invoices and canceled checks—took them out of the office? Is that what you said before? A. No. The accountant came here once in a month or sometimes twice a month and he have to make the proper entries in the books, so he asked me in December, on different occasions—this never happened before—is missing a few invoices and he want to have the invoices to make the proper entries. "Where are the suppliers? How much we paid out? How much we collect?" and so on.

We have to keep in according with this system, proper books.

Q. In other words, the accountants did not take any papers out of your office, is that correct? A. This accountant, not. The previous accountant took out 20, the checks and the books, to his home.

Q. Then there were some accountants who did take books and records out of the corporation. A. No, only checks and books.

Q. Checks and books? A. Yes.

Q. They wouldn't have taken purchase orders, for example? A. No, sir.

(136)

Q. They wouldn't have taken invoices? A. Checks and books.

Q. They wouldn't have taken purchase orders? A. No.

Q. Checks and books. A. Previous, they are doing homework, accountants, part-time accountants.

The Court: Those were canceled checks and books.

The Witness: Yes, but the bundles, he took checks, and that I was amazed.

Q. Isn't it a fact, Mr. Hecht, that none of the important papers of the office were kept on the floor of the office? Isn't that a fact? A. Well, it is not important. I am receiving daily an average of between 40 and 60 foreign, international letters, correspondence from Europe and all parts. Until I am through with the correspondence in the afternoon, and until I am going through with the invoices and the payments—I am a one-man office and I cannot depend on the clerks and on nobody else—so usually I

leave there the papers with the purpose to file it in the proper place.

I had a good system in the past, an excellent (137) system on my fingertips. I could find everything, the cardex and the correspondence, but lately—I admit that—I had not since one year or 15 months a proper system, and I am ashamed to admit it.

Q. Let me ask you this: You wouldn't suggest that any of the invoices were just thrown on the floor of your office, would you? A. No, not purposely because I need these invoices to buy tomorrow merchandise from the same suppliers and to buy next year because certain suppliers give me an excellent service and special price, so I need these invoices for later purchases.

Q. You wouldn't suggest that the purchase orders were just thrown on the floor of the office, would you? A. No, I don't throw it. I don't use these to throw around. Nothing is thrown around. Just to organize it properly, I have it on one side and I put it on another side and Mr. Cohn put it in the bundles and that is the end of it.

Q. And you wouldn't suggest that the copies of covering letters to U. S. suppliers were just tossed on the floor of the office, would you? A. No, I don't say that also. When he made out a check, automatically he put in a copy of the letters (138) and put it in the file because he had the file in the back of him, of his chair.

Q. These were papers that went in the file, is that right? A. Yes.

Q. Therefore these are not the papers that would have been thrown out by the charwoman, is that correct? A. I went through the papers with the FBI. You have only one dozen, but I am missing there at least 150 more papers.

I mean, you are speaking from the copies of the check, copies.

Q. Let me ask you this to sum all this up: You heard Mr. Mulroy, the FBI agent, testify yesterday— A. Yes.

Q. —that he could find no papers in your files relating to purchases from suppliers in the United States of goods, specifically of textiles and rubber tires, to be shipped to customers of World Over in Vietnam and Cambodia, respectively. How do you account for that? A. May I call your attention, sir, that he doesn't find invoices from South Africa, he don't find invoices from European countries where we send merchandise. I need these invoices also to pay (139) commissions to these agents. I beg your pardon, sir. You asked me one question from Saigon and Cambodia. We are missing more invoices from other countries also.

Q. How do you account for the fact that all of these papers are missing, Mr. Hecht, but all of the papers, or generally speaking, the papers relating to the transactions between World Over and the far eastern customers are in your files? A. No, sir. The invoices I am missing—I repeat again. There are missing the invoices also in the office, invoices in relation with dealing in other countries.

The Court: Yes, but you are not answering the question, Mr. Hecht. The question is: You admit that those invoices and papers are missing. You say that additional papers are missing. But, regardless of whether additional papers are missing, how do you account for the fact that the Cambodia and Vietnam papers are missing?

The Witness: As I said, your Honor, before, he had it all by bundles on his desk, all the correspond-

Stanley S. Hecht—Defendant—By the Court

ence, separate invoices in bundles, and I just had not a chance all the months to go through in details. I have been too busy with going out in (140) the market to purchase goods, take care of the telephone, take care of details; I am traveling a lot——

The Court: In other words, you cannot explain it.

The Witness: No, sir.

The Court: Because you have been too busy.

The Witness: Yes, sir, and he had it in his desk all the time.

The Court: By "he" you mean Mr. Cohn?

The Witness: Yes, your Honor.

Q. And you really haven't any excuse? A. I beg your pardon?

Q. You really haven't any excuse, any reason why all these papers are missing. A. I do have an excuse, because this can happen—of course, it is not supposed to happen, but this could happen. It could happen that a file is getting lost or papers getting lost, not purposely. It is not necessarily to be purposely, but it is just a lack of organization.

Q. It could happen that all of the invoices— A. Of a system.

Q. —all of the purchase orders, all of the canceled checks, all of the covering letters, all of the packing lists you received from Nu Mar, all of (141) them were missing? That could happen? A. No. I am a plain businessman and I am 27 years in business. I know what you asked me very good, but you should restrict yourself, Mr. District Attorney, to the one situation. This is not all. It is not here all.

I don't know at this very moment what checks are missing myself. I don't know what correspondence I am missing. I have not an interest to be missing nothing. I have nothing to hide, in the first place.

Q. Did you know at the time you were served with this subpoena that you were under investigation for alleged violations involving ICA transactions? A. Yes, I do.

Q. You did know that? A. I know, yes.

Q. Did you hear Mr. Mulroy testify yesterday that he put your checks in chronological order, the canceled checks in your files? A. Yes.

Q. And that the only ones missing were those relating to purchases of World Over from suppliers in the United States? A. Yes.

(142)

Q. How do you account for that? A. But Mr. Mulroy don't told you a very important fact, that he found in different files different checks, more checks, not organized properly, in the proper place.

The Court: What you are saying, in effect, is that a great many more documents than these are missing.

The Witness: Yes.

The Court: And you don't know how it happened.

The Witness: Yes.

The Court: Except that you were not there most of the time and you were not well organized.

The Witness: Yes, it is true.

The Court: Although you admit that some of these papers that Mr. Zinke is questioning you about were filed in the filing cabinets. You admit that?

Stanley S. Hecht—Defendant—By the Court

The Witness: Yes, your Honor, indeed.

The Court: But you don't know how they got out of the filing cabinets?

The Witness: Because mostly Mr. Cohn keeped a lot of bundles of papers on his desk so big (indicating). I can give you a dozen witnesses in this respect.

(143)

The Court: He kept them on his desk but you don't know how they disappeared from his desk?

The Witness: I don't know, no, sir. It is not supposed to be disappeared.

The Court: You don't claim Mr. Cohn stole the papers, do you?

The Witness: No.

The Court: Or that he threw them away?

The Witness: No, he had not a good system.

The Court: All you say is that Cohn was a little bit slipshod or clumsy.

The Witness: Plenty.

The Court: And left papers on his desk that he should have put in the filing cabinet.

The Witness: I can mention you witnesses that worked with me in my office that he has a very bad system—I am sorry to admit that—and I myself left sometimes papers on the desk or on the floor for the purpose of organizing them properly, alphabetically.

The Court: Are you finished?

Mr. Zinke: No further questions, your Honor. I think it is patently clear.

Mr. Brunner: No further questions.

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Statements of Judge Palmieri and Counsel at Re-Hearing

(144)

The Court: I adhere to the decision I reached yesterday, and I am filing this order in the terms which I have already read, and I adhere to the imposition of the same sentence with the same purging clause.

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Mr. Zinke: I was about to add, your Honor, that if Mr. Hecht would furnish me with the names of his accountants, I will be glad to have the FBI (145) immediately contact them and see what substance there is to the statements which Mr. Hecht has made.

The Witness: The name is Mr. Voker. You have him in the checkbook.

The Court: I will give you an opportunity to confer with your lawyers and with Mr. Zinke so that he can take down the names and addresses of these people to see whether there is any basis for it.

But my own view is that it is incredible that so many business records could have just disappeared in the manner this witness claims. I cannot credit his story.

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